IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (LOD) NO.551 OF 2004

Sangamner Bhag Sahakari Sakhar Karkhana Ltd. ..Appellant.

V/s.

The Dy. Commissioner of Income Tax & Anr. ..Respondents.

Mr.Bhushan V.Mahdik for appellant.

Mr.Ashok Kotangale for respondents.

CORAM : F.I.REBELLO AND R.V.MORE, JJ.

DATED : 3RD JULY, 2007.

P.C. :-

. Admit. Heard both the counsel.

2. This appeal was admitted on the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case and in law, the Tribunal relying upon the decision of the High Court of Bombay in the case of Chhatrapati S.S.K. Ltd. (245 ITR 498) was right in making additions made by the Assessing officer on account of Non Refundable Deposit, Interest on NRD, Area Development Fund, Chief Minister Relief Fund, Cane Development Fund, Hutment Fund and Flood Relief Fund collected by the Assessee out of the sugarcane purchase price payable to the cane growers as Trading Receipts of the Assessee ? "

3. The learned counsel for the parties drew our attention to the Judgment of this Court in **Commissioner of Income-Tax V/s. Malegaon Sahakari Sakhar Karkhana Ltd.** reported in **(2005) 279 I.T.R. 19 (Bom.)**. The counsel agree that the following proposition follow:-

i. Account of non-refundable deposit, interest on NRD, Chief Minister Relief Fund, Hutment Fund and Flood relief fund are not assessable.

ii. It is further agreed that based on the Judgment, the cane development fund is assessable;

iii. That the issue of Area Development Fund has to be remitted to the Tribunal in terms of what is set out in the Judgment o Malegaon Sahakari Sakhar Karkhana Ltd. (supra).

4. For the abovesaid reasons, the question is answered accordingly. Appeal accordingly disposed of.

5. There shall be no order as to costs

(F.I.REBELL0, J.)

(R.V.MORE, J.)